

SCHEDULE 9

(introduced by section 112)

ACTION FOLLOWING SERVICE OF PURCHASE NOTICE

Response to purchase notice by planning authority

- 1 (1) Where a person has served a purchase notice on a planning authority, the authority must serve an acceptance notice or rejection notice on the person.
- (2) An acceptance notice is a notice stating either—
 - (a) that the planning authority is willing to comply with the purchase notice, or
 - (b) that another local authority or statutory undertaker specified in the acceptance notice has agreed to comply with the purchase notice.
- (3) A rejection notice is a notice stating—
 - (a) that for reasons specified in the notice, the planning authority is not willing to comply with the purchase notice and has not found any other local authority or statutory undertaker willing to comply with it, and
 - (b) that the planning authority has sent copies of the purchase notice and rejection notice to the Welsh Ministers.
- (4) An acceptance notice or rejection notice must be served before the end of 3 months beginning with the day the purchase notice was served.
- (5) Where the planning authority serves an acceptance notice on a person, that authority or (in the case of a notice falling within sub-paragraph (2)(b)) the other local authority or statutory undertaker specified in the notice is to be treated—
 - (a) as being authorised under section 137 to acquire the person’s interest compulsorily, and
 - (b) as having served a notice to treat in respect of that interest on the day the acceptance notice is served.
- (6) Before serving a rejection notice on a person, the planning authority must send the Welsh Ministers—
 - (a) a copy of the rejection notice, and
 - (b) a copy of the purchase notice.
- (7) A notice to treat which is treated as having been served by virtue of sub-paragraph (5) (b) may not be withdrawn under section 31 of the [Land Compensation Act 1961](#) (c. 33).

Action to be taken by Welsh Ministers on rejection of purchase notice by planning authority

- 2 (1) This paragraph applies where a copy of a purchase notice is sent to the Welsh Ministers under paragraph 1(6).
- (2) The Welsh Ministers must confirm the purchase notice if they are satisfied—
 - (a) that the sets of conditions in section 109 are met in relation to the land to which the notice relates, and
 - (b) that the land to which the notice relates includes all of the land adjoining or adjacent to the listed building that they consider is required—
 - (i) for preserving the building or its amenities,
 - (ii) for providing or facilitating access to it, or

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- (iii) for its proper control or management,
but this is subject to the following provisions.
- (3) If the Welsh Ministers are satisfied that the sets of conditions in section 109 are met only in relation to part of the land, they must confirm the notice only in relation to that part.
- (4) Instead of confirming the purchase notice, the Welsh Ministers may—
- (a) in the case of a notice served in consequence of a refusal of listed building consent for any works, grant listed building consent for the works;
 - (b) in the case of a notice served in consequence of a grant of listed building consent for any works subject to conditions, vary or remove the conditions so far as they consider necessary to enable the land to which the notice relates to be made usable by carrying out the works;
 - (c) in the case of a notice served in consequence of an order under section 107 revoking listed building consent, revoke the order;
 - (d) in the case of a notice served in consequence of an order under that section modifying listed building consent for any works by imposing conditions, vary or remove the conditions so far as they consider necessary to enable the land to which the notice relates to be made usable by carrying out the works.
- (5) Sub-paragraph (6) applies if the Welsh Ministers consider that the land to which the notice relates, or any part of it, could be made usable within a reasonable time by carrying out—
- (a) any other works for which listed building consent ought to be granted, or
 - (b) any development for which planning permission ought to be granted.
- (6) Instead of confirming the purchase notice in relation to the land or that part of it, the Welsh Ministers may direct that, if an application is made for listed building consent for those works, or for planning permission for that development, it must be granted.
- (7) In confirming a purchase notice the Welsh Ministers may, if they consider it appropriate having regard to the probable ultimate use of the land to which the notice relates, modify the notice in relation to all or any part of the land by substituting another local authority or statutory undertaker for the planning authority on which the notice was served.
- (8) If the Welsh Ministers are not satisfied as mentioned in sub-paragraph (2) in relation to a purchase notice, they must refuse to confirm the notice.
- (9) In this paragraph references to the land to which a purchase notice relates are to the listed building and associated land (if any) in respect of which the notice is served.

Procedure before Welsh Ministers take action in relation to purchase notice

- 3 (1) Before taking any action in relation to a purchase notice under paragraph 2, the Welsh Ministers must serve notice of their proposed action—
- (a) on the person who served the purchase notice,
 - (b) on the planning authority on which the purchase notice was served, and
 - (c) if they propose to substitute any other local authority or statutory undertaker for the planning authority, on the other local authority or statutory undertaker.

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- (2) A notice under sub-paragraph (1) must specify the period within which any of the persons on whom it is served may make a request in writing to the Welsh Ministers for an opportunity to appear before and be heard by a person appointed by the Welsh Ministers.
- (3) If a person on whom the notice is served makes a request within that period, the Welsh Ministers must give that person such an opportunity before they take any action in relation to the purchase notice under paragraph 2.
- (4) The period specified under sub-paragraph (2) must be at least 28 days beginning with the day after the day the notice under sub-paragraph (1) is served.
- (5) If, after any persons have appeared before and been heard by an appointed person, the Welsh Ministers consider it appropriate to take action under paragraph 2 otherwise than in accordance with the notice served under sub-paragraph (1), they may do so.

Effect of Welsh Ministers' action in relation to purchase notice

- 4 (1) Where the Welsh Ministers confirm a purchase notice, the authority mentioned in sub-paragraph (2) is to be treated—
 - (a) as being authorised under section 137 to acquire compulsorily the interest of the person who served the notice, and
 - (b) as having served a notice to treat in respect of that interest on the date that the Welsh Ministers direct.
- (2) The authority referred to in sub-paragraph (1) is—
 - (a) the planning authority on which the purchase notice was served, or
 - (b) if the Welsh Ministers modified the purchase notice under paragraph 2(7) by substituting another local authority or statutory undertaker for the planning authority, the other local authority or statutory undertaker.
- (3) If a purchase notice is sent to the Welsh Ministers under paragraph 1(6) and they do not take any action in relation to it under paragraph 2 by the end of the relevant period—
 - (a) the purchase notice is to be treated as having been confirmed by them at the end of the relevant period, and
 - (b) the planning authority on which the purchase notice was served is to be treated—
 - (i) as being authorised under section 137 to acquire compulsorily the interest of the person who served the notice, and
 - (ii) as having served a notice to treat in respect of that interest at the end of the relevant period.
- (4) Where a purchase notice is confirmed only in relation to part of the land to which it relates, references in this paragraph to the owner's interest are to the owner's interest in that part.
- (5) In sub-paragraph (3) the “relevant period” means whichever of the following ends earlier—
 - (a) 9 months beginning with the day the purchase notice was served on the planning authority;
 - (b) 6 months beginning with the day a copy of the notice was sent to the Welsh Ministers under paragraph 1(6).

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- (6) But the relevant period does not include any time when the Welsh Ministers have before them both—
- (a) a copy of the purchase notice sent to them under paragraph 1(6), and
 - (b) a notice of appeal under section 100 (appeal against refusal etc. of listed building consent) or 127 (appeal against enforcement notice) relating to any of the land to which the purchase notice relates.
- (7) A notice to treat which is treated as having been served by virtue of sub-paragraph (1) (b) or (3)(b)(ii) may not be withdrawn under section 31 of the [Land Compensation Act 1961 \(c. 33\)](#).
- (8) In this paragraph references to the land to which a purchase notice relates are to the listed building and associated land (if any) in respect of which the notice is served.

Legal challenge to Welsh Ministers’ action in relation to purchase notice

- 5 (1) If a decision of the Welsh Ministers to take any action in relation to a purchase notice under paragraph 2 is quashed in proceedings under section 183, the purchase notice is to be treated as cancelled, but the person who served it may serve a further purchase notice.
- (2) For the purpose of determining whether the further purchase notice has been served within the time specified in section 111(1), the decision to which the notice relates is to be treated as having been made, or the order to which it relates is to be treated as having taken effect, on the day the Welsh Ministers’ decision was quashed.

Deduction of compensation payable under section 108 on acquisition

- 6 Where compensation is payable under section 108 (compensation where consent is modified or revoked) for expenditure incurred in carrying out works to a listed building, any compensation that becomes payable in respect of the acquisition of an interest in the building and any associated land in pursuance of a purchase notice must be reduced by the amount of the compensation relating to the works.

Interpretation of Schedule

- 7 (1) In this Schedule—
- “associated land” (“*tir cysylltiedig*”) and “usable” (“*defnyddiadwy*”) have the meanings given by section 109(6);
- “statutory undertaker” (“*ymgymerwr statudol*”) includes an electronic communications code operator and a former public telecommunications operator.
- (2) In the definition of “statutory undertaker” in sub-paragraph (1)—
- “electronic communications code operator” (“*gweithredwr cod cyfathrebu electronig*”) has the meaning given by paragraph 1(1) of Schedule 17 to the [Communications Act 2003 \(c. 21\)](#);
- “former public telecommunications operator” (“*cyn-weithredwr telathrebu cyhoeddus*”) has the meaning given to “former PTO” by paragraph 1(1) of Schedule 17 to the Communications Act 2003.